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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,007	03/26/2004	David L. Robinson	0739D-000105	2659

27572 7590 08/09/2005

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EXAMINER
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EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/812,007

Applicant(s)

ROBINSON ET AL.

Examiner

Joseph F. Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/26/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-8, drawn to a headrest assembly, classified in class 297, subclass 391.
  - II. Claims 9-22, drawn to a seat assembly, classified in class 297, subclass 408.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group I and Group II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require a spring engaging the lever and the first housing to bias the lever into the locked position. The subcombination has separate utility such as in a vehicle seat that has no reclining mechanism in the seat bottom.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with M. Malinzak on 26 July 2005 a provisional election was made without traverse to prosecute the invention of Group II, claims 9-22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-8 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Objections***

2. Claims 11-14 and 17-21 are objected to because of the following informalities:
  - a. claim 11, line 1, "cable seat" should read --first cable seat--;
  - b. claim 11, line 2, "cable" should read --first cable--;
  - c. claim 12, line 1, "cable" should read --first cable--;
  - d. claim 12, line 2, "cable seat" should read --first cable seat--;
  - e. claim 12, line 3, "cable" should read --first cable--;
  - f. claim 13, line 2, "cable seat" should read --second cable seat--;

- g. claim 13, line 2, "cable" should read --second cable--;
- h. claim 14, line 1, "cable" should read --second cable--;
- i. claim 14, line 2, "cable seat" should read --second cable seat--;
- j. claim 14, line 3, "cable" should read --second cable--;
- k. claim 14, line 4, "locking mechanism" should read --lock mechanism--;
- m. claim 17, line 1, "cable seat" should read --first cable seat--;
- n. claim 17, line 2, "cable" should read --first cable--;
- o. claim 18, line 1, "cable" should read --first cable--;
- p. claim 18, line 2, "cable seat" should read --first cable seat--;
- q. claim 18, line 3, "cable" should read --first cable--;
- r. claim 19, line 2, "cable seat" should read --second cable seat--;
- s. claim 19, line 2, "cable" should read --second cable--;
- t. claim 20, line 1, "cable" should read --second cable--;
- u. claim 20, line 4, "locking mechanism" should read --lock member--;
- v. claim 21, line 2, "locking member" should read --lock member--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 9-12, 15-18, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,641,884 to Miyashita et al.

Miyashita et al. disclose a seat assembly that includes all the limitations recited in claims 9-12, 15-18, 21, and 22. Miyashita et al. show a seat assembly having a seat bottom 2 (see Fig. 1), a seatback 3 pivotably supported by the seat bottom, a recliner mechanism 4 operable between a locked position restricting rotation of the seatback relative to the seat bottom and an unlocked position permitting rotation of the seatback relative to the seat bottom, a headrest assembly 3c supported by the seatback wherein the headrest assembly has a first housing 42 (see Fig. 3) fixedly attached to the seatback, a second housing 43 rotatably supported by the first housing, a lock mechanism 5 operable to restrict rotation of the second housing when the recliner mechanism is in the locked position and to permit rotation of the second housing when the recliner mechanism is in the unlocked position, a lever operable to toggle the lock mechanism between the unlocked and locked positions, a cable seat of the lever, and a cable 8 attached to the cable seat at a first end and to the recliner mechanism at a second end wherein the, headrest assembly includes a cross-member 46 (see Fig. 7) fixed attached to the first housing, a lock member 44,48 of the lock mechanism that engages the cross-member, the lever is rotatably attached to the cross-member, a biasing member 56 operable to bias the lever and urge the lock member into the locked position, a coil spring 36 operable to bias the second housing into the upright position, and the cable is operable to transmit a force form the recliner mechanism when the

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recliner mechanism is in the unlocked position to rotate the lever and unlock the lock mechanism

5. Claims 9 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,507,556 to Dixon.

Dixon discloses a seat assembly that includes all the limitations recited in claims 9 and 13-15. Dixon shows a seat assembly having a seat bottom 11 (Fig. 1), a seatback 14 (Fig. 1) pivotably supported by the seat bottom, a recliner mechanism (Fig. 4) operable between a locked position restricting rotation of the seatback relative to the seat bottom and an unlocked position permitting rotation of the seatback relative to the seat bottom, a headrest assembly (Fig. 4) supported by the seatback wherein the headrest assembly has a first housing 25A,25B (Fig. 3) fixedly attached to the seatback, a second housing 21 (Fig. 3) rotatably supported by the first housing, a lock mechanism 32A operable to restrict rotation of the second housing when the recliner mechanism is in the locked position and to permit rotation of the second housing when the recliner mechanism is in the unlocked position, the second housing includes a cable seat (Fig. 4) operable to receive a cable 32, a first end of the cable fixedly attached to the cable seat and a second end fixed attached to the seat bottom, the cable operable to rotate the second housing relative to the first housing when the lock mechanism is in the unlocked position due to rotation of the seatback relative to the seat bottom.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 13, 14, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyashita et al. in view of U.S. Patent No. 5,681,079 to Robinson.

Miyashita et al. disclose a seat assembly that is basically the same as that recited in claims 13, 14, 19, and 20 except that the second housing lacks a second cable and second cable seat, as recited in the claims. Robinson shows a seat assembly similar to that of Miyashita et al. wherein the seat assembly has a seat bottom 12 (see Fig. 1A), a seat back 14, a recliner mechanism 44, and a headrest assembly 16 with first and second housings 130, 132 (see Fig. 7). The second housing of Robinson includes a cable seat and a cable 150 fixedly attached to the cable seat at a first end and to the seat bottom at a second end (see Fig. 9A). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat assembly of Miyashita et al. such that the second housing has a second cable seat, and a second cable fixedly attached to the seat cable seat at a first end and to the seat bottom at a second end such that the second cable is operable to rotate the second housing relative to the first housing when the lock mechanism/lock member is in the unlocked position due to rotation of the seatback relative to the seat bottom, such as the seat assembly disclosed in Robinson. One would have been motivated to make such a modification in view of the suggestion in Robinson that the second cable and



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second cable seat configuration allows the headrest to be folded rearwardly to a dumped position when the seat back is folded to a forward storage position.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to seat assemblies:

U.S. Pat. No. 3,065,029 to Spound et al. U.S. Pat. No. 4,600,240 to Suman et al.

U.S. Pat. No. 5,784,759 to King U.S. Pat. No. 6,024,405 to MacAndrew et al.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JE  
August 7, 2005

  
**PETER R. BROWN**  
**PRIMARY EXAMINER**